

Appl. No. 10/804,381
Atty. Docket No. 7892C
Amdt. dated February 3, 2006
Reply to Office Action of November 3, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1-20 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 14, and 17, have been amended to recite the barrier protectant is "a paraffin wax having about 16 to 50 carbon atoms." Support for the amendment is found at page 14 lines 6-7 of the specification.

Claims 10 and 20, have been amended to be consistent with the amendments to their respective independent claims.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §103(a) Over Johansson (US 6,562,802) in view of Bloom et al. (US 5,614,178)

Claims 1-5 and 7-13 have been rejected under 35 USC §103(a) as being unpatentable over Johansson (US 6,562,802) in view of Bloom et al. (US 5,614,178). This rejection is traversed because the cited references do not establish a prima facie case of obviousness because they do not teach or suggest all of the claim limitations of Claims 1-5 and 7-13. Therefore, the claimed invention is unobvious and that the rejection should be withdrawn.

Johansson does not teach or suggest all of the claim limitations of independent Claim 1 and, therefore, does not establish a prima facie case of obviousness (see MPEP 2143.03). Specifically, the Office Action failed to point out where in Johansson is found a teaching that the release composition is semi-solid or solid at 20 degrees C. as claimed in Claim 1.

Applicants submit that Johansson fails to teach the recited claim limitation that the release composition is semi-solid or solid at 20 degrees C. However, to even more clearly differentiate the invention over Johansson, and to advance prosecution of the application, Applicants have amended Claim 1 to include that the barrier protectant is "a

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paraffin wax having about 16 to 15 carbon atoms." The "paraffin liquid" of Johansson is not a paraffin wax.

The addition of Bloom fails to remedy the deficiency of Johansson. Bloom does not teach, disclose or suggest a barrier protectant that is "a paraffin wax having about 16 to 15 carbon atoms."

Accordingly, because the cited references fail to teach every element of the claimed invention of Claim 1, and because it is impossible for there to be any suggestion or motivation to modify or combine references that do not even teach the necessary claim elements, Applicants respectfully submit the Office Action has failed to make out a *prima facie* case of obviousness for Claim 1 and its dependent claims. Therefore, Applicants request the rejection be withdrawn and Claims 1-5 and 7-13 be allowed.

Rejection Under 35 USC §103(a) Over Johansson (US 6,562,802) in view of Bloom et al. (US 5,614,178) as applied above and further in view of EP 297,828

Claims 1-5 and 7-13 have been rejected under 35 USC §103(a) as being unpatentable over Johansson (US 6,562,802) in view of Bloom et al. (US 5,614,178) as applied above and further in view of EP 297,828J. This rejection is traversed because the cited references do not establish a *prima facie* case of obviousness because they do not teach or suggest all of the claim limitations of amended Claims 14 and 17. Therefore, the claimed invention is unobvious and that the rejection should be withdrawn.

Johansson does not teach or suggest all of the claim limitations of independent Claims 14 and 17, and therefore, does not establish a *prima facie* case of obviousness (see MPEP 2143.03). Specifically, the Office Action failed to point out where in Johansson is found a teaching that the release composition is semi-solid or solid at 20 degrees C. as claimed in Claims 14 and 17.

Applicants submit that Johansson fails to teach the recited claim limitation that the release composition is semi-solid or solid at 20 degrees C. However, to even more clearly differentiate the invention over Johansson, and to advance prosecution of the application, Applicants have amended Claim 1 to include that the barrier protectant is "a paraffin wax having about 16 to 15 carbon atoms." The "paraffin liquid" of Johansson is not a paraffin wax.

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The addition of Bloom fails to remedy the deficiency of Johansson. Bloom does not teach, disclose or suggest a barrier protectant that is "a paraffin wax having about 16 to 15 carbon atoms."

The addition of EP '828 fails to remedy the deficiency of Johansson and Bloom. EP '828 does not teach, disclose or suggest a barrier protectant that is "a paraffin wax having about 16 to 15 carbon atoms."

Accordingly, because the cited references fail to teach every element of the claimed invention of Claims 14 and 17, and because it is impossible for there to be any suggestion or motivation to modify or combine references that do not even teach the necessary claim elements, Applicants respectfully submit the Office Action has failed to make out a *prima facie* case of obviousness for Claims 14 and 17. Therefore, Applicants request the rejection be withdrawn and Claims 14 and 17 be allowed.

Rejection Under 35 USC §103(a) Over Huard et al (US 6,517,848) in view of Johansson (US 6,562,802) in view of Lang (US 4,528,283)

Claims 14, 16, 17, 19 and 20 have been rejected under 35 USC §103(a) as being unpatentable over Huard et al (US 6,517,848) in view of Johansson (US 6,562,802) in view of Lang (US 4,528,283). This rejection is traversed because the cited references do not establish a *prima facie* case of obviousness because they do not teach or suggest all of the claim limitations of Claims 14 and 17, or their respective dependent claims. Therefore, the claimed invention is unobvious and that the rejection should be withdrawn.

Applicants agree with the Office Action that Huard fails to explicitly teach the claimed invention. However, it is not only that Huard fails to explicitly teach the claimed invention, Huard fails to teach anything about the claimed invention. At best Huard discloses a listing of ingredients of various types and categories. Only in hindsight could one reconstruct from Huard any semblance of the claimed invention, and only in hindsight would one have any knowledge of which choices to make to achieve the claimed invention. Therefore, it is only with impermissible hindsight analysis that one might be motivated to modify Huang at all.

Regardless of one's motivation to modify Huang, one would not be motivated to have the claimed invention, because, as shown above, Johansson does not teach or suggest all of the claim limitations of independent Claim 14, 16, 17, 19 and 20.

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Therefore, the combination of Huard and Johansson does not establish a *prima facie* case of obviousness (see MPEP 2143.03).

The addition of Lang fails to remedy the deficiencies of Huard and Johansson. Lang simply teaches various combinations of ingredients, but like Huard and Johansson does not teach, disclose or suggest the claimed combination. One of ordinary skill in the art would have no direction from any of the cited references to make the claimed combination.

The Office Action fails to provide any reason *why* one skilled in the art would be motivated to modify these disparate references. There is no nexus among these references that would indicate to the one of ordinary skill that they can be combined or modified by their respective teachings. Moreover, however, there is no teaching or suggestion in any of the references that would prompt the one of ordinary skill to modify Huang to have the claimed composition. It appears that the Office Action has engaged in impermissible hindsight to do so. Of course, the Applicants respectfully submit that such an impermissible reconstruction of the claimed invention by picking and choosing among disclosed ingredients in three separate references falls short of the requirement of a finding of obviousness.

Accordingly, because the cited references fail to provide any suggestion or motivation to modify or combine references to achieve the claimed invention, Applicants respectfully submit the Office Action has failed to make out a *prima facie* case of obviousness for Claims 14, 16, 17, 19 and 20. Therefore, Applicants request the rejection be withdrawn and Claims 14, 16, 17, 19 and 20 be allowed.

Double Patenting

Applicants submit that they will timely file any necessary terminal disclaimers upon the indication of allowable subject matter.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

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This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-20 is respectfully requested.

Respectfully submitted,

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By


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